

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \* \* \*

4 ISAAC LEWIS,

5 Plaintiff,

6 v.

7 B. GUTIERREZ, *et al.*,

8 Defendants.  
9

Case No. 3:22-CV-00010-MMD-CLB

**ORDER STRIKING AMENDED  
COMPLAINT AND DIRECTING  
PLAINTIFF TO FILE MOTION TO  
SUBSTITUTE**

[ECF No. 23]

10 Before the Court is Plaintiff Isaac Lewis's ("Lewis") amended complaint. (ECF No.  
11 23.) For the reasons discussed below, the Court strikes the amended complaint and  
12 directs Lewis to file a motion to substitute.

13 Federal Rule of Civil Procedure 15(a)(1) allows a party to amend its pleading once  
14 as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to  
15 which a responsive pleading is required, 21 days after service of a responsive pleading.  
16 Fed. R. Civ. P. 15(a)(2) further instructs that "[i]n all other cases, a party may amend its  
17 pleading only with the opposing party's written consent or the court's leave. The court  
18 should freely give leave [to amend a pleading] when justice so requires," and there is a  
19 strong public policy in favor of permitting amendment. *Bowles v. Reade*, 198 F.3d 752,  
20 757 (9th Cir. 1999). Further, LR 15-1 requires a party to attach proposed amended  
21 pleadings to a motion seeking leave of court to file an amended pleading.

22 Here, Lewis filed his amended complaint on January 4, 2023—well past 21 days  
23 after the answer was filed on October 2, 2022—Lewis was required to obtain Defendants'  
24 written consent or leave of Court to file an amended pleading, which he failed to do.  
25 Accordingly, the Court will strike Lewis's amended complaint, (ECF No. 23), for his failure  
26 to follow Fed. R. Civ. P. 15(a)(2) and LR 15-1.

27 Nonetheless, in reviewing the amended complaint, the Court notes that it appears  
28 Lewis is attempting to substitute in Doe Defendants and is not actually amending any of

1 the allegations in his complaint. Thus, as this Court previously directed Lewis at the Case  
2 Management Conference held on November 14, 2022 (ECF No. 19), to the extent Lewis  
3 would like to properly name Doe defendants, he shall file a motion to substitute.

4 Accordingly, **IT IS ORDERED** that Lewis's amended complaint, (ECF No. 23) is  
5 **STRICKEN**.

6 **DATED:** January 4, 2023.

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UNITED STATES MAGISTRATE JUDGE